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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 667 OF 2006

Shri Leeladhar Suryaji Mhatre ... Appellant

V/s

Shri Keshav Maya Patil ... Respondent

Mr. N.B. Shah with Mr. T.K. Patil and Kiran T. Patil for the appellant.

Mr. S.V. Gavand for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 27TH JULY, 2007.

P.C.:

1. The plaintiff had filed the suit for a declaration, injunction and removal of the encroachment by the defendant. According to the plaintiff, the defendant has encroached his lands. He sought to remove this encroacnment by producing a map of the surveyor appointed by the D.I.L.R. The evidence of the surveyor was recorded by the Trial Court. This surveyor has stated that the suit land was flat and, therefore, the plain table method for surveying the land was used. Both the Courts below have accepted the evidence of the surveyor. The suit has been decreed and the appeal

filed by the defendant, the appellant herein, has been dismissed.

2. An attempt was made to submit on behalf of the appellant that the surveyor has not conducted the survey in accordance with the provisions of the Maharashtra Land Revenue Code and Rules made thereunder. The appellant had not asked for a fresh survey at any point of time or did he place on record any evidence of any other surveyor or any other map which was contrary to those on record. In such circumstances, the Trial Court has accepted the surveyor's report and has decreed the suit.

3. In my view, there is no error of law, nor has any substantial question of law arisen in the present appeal.

4. Appeal dismissed.

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